

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PEDRO JAVIER RIVERA

Petitioner,

-against-

OPINION & ORDER
06-CV-5140 (SJF)

UNITED STATES OF AMERICA

Respondent.

-----X
FEUERSTEIN, J:

On September 21, 2006, *pro se* petitioner Pedro Javier Rivera ("Petitioner") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255. On October 4, 2006, the Court issued an Order denying Petitioner's petition. Rivera v. U.S., No. 06-CIV-5140 (E.D.N.Y. Oct. 4, 2006). The Court found that Petitioner's petition was untimely. Nevertheless, because of the potential for equitable tolling, the Court gave Petitioner thirty (30) days from the date of the Order to provide an explanation for his failure to timely file his petition. The Court stated: "Failure to do so will result in summary dismissal." Id. at 4. Petitioner has failed to file his explanation with the Court.

Accordingly, this action is dismissed. The Clerk of the Court is directed to close the case.
IT IS ~~SO~~ ORDERED.

/ Sandra J. Feuerstein
United States District Judge

Dated: Central Islip, New York
December 6, 2006

Copy to:

Pedro Javier Rivera, *pro se*

68863-053

Federal Correctional Institution - Elkton

PO Box 10

Lisbon, OH 44433